

As Amended by House Committee

Session of 2016

Substitute for SENATE BILL No. 22

By Committee on Judiciary

1-21

1 AN ACT concerning courts; relating to municipal ~~court; notice~~ courts;
2 assessments; the Kansas commission on peace officers' standards
3 and training fund; notices from district courts; amending K.S.A. 12-
4 4112 and K.S.A. 2015 Supp. 12-4117, 12-4516, 21-6614, 22-2410 and
5 22-3609 and repealing the existing sections; also repealing K.S.A. 2015
6 Supp. 12-4516d and 21-6614f.

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 12-4112 is hereby amended to read as follows:
10 12-4112. No person shall be assessed costs for the administration of
11 justice in any municipal court case, except for:

12 (a) Witness fees and mileage as set forth in K.S.A. 12-4411, and
13 amendments thereto;

14 (b) ~~for the assessment required by K.S.A. 2001 Supp. 20-1a11, and~~
15 ~~amendments thereto; for the judicial branch education fund;~~

16 (c) ~~for the assessment required by K.S.A. 12-4117, and~~
17 ~~amendments thereto, for the law enforcement training center fund~~
18 ~~established pursuant to K.S.A. 74-5619, and amendments thereto, the local~~
19 ~~law enforcement training reimbursement fund established pursuant to~~
20 ~~K.S.A. 74-5620, and amendments thereto, and the juvenile detention~~
21 ~~facilities fund as provided in K.S.A. 12-4117, and amendments thereto;~~
22 and

23 (d) ~~for the assessment required by K.S.A. 12-16,119, and~~
24 ~~amendments thereto, for the detention facility processing fee.~~

25 Sec. 2. K.S.A. 2015 Supp. 12-4117 is hereby amended to read as
26 follows: 12-4117. (a) In each case filed in municipal court other than a
27 nonmoving traffic violation, where there is a finding of guilty or a plea
28 of guilty, a plea of no contest, forfeiture of bond or a diversion, a sum
29 in an amount of ~~\$20~~ \$22.50 shall be assessed and such assessment shall
30 be credited as follows:

31 One dollar to the local law enforcement training reimbursement
32 fund established pursuant to K.S.A. 74-5620, and amendments
33 thereto, \$11.50 to the law enforcement training center fund established
34 pursuant to K.S.A. 74-5619, and amendments thereto, ~~\$2.50~~ \$5 to the
35 Kansas commission on peace officers' standards and training fund
36 established by K.S.A. 74-5619, and amendments thereto, \$2 to the

1 juvenile detention facilities fund established pursuant to K.S.A. 79-
2 4803, and amendments thereto, to be expended for operational costs of
3 facilities for the detention of juveniles, \$.50 to the protection from
4 abuse fund established pursuant to K.S.A. 74-7325, and amendments
5 thereto, \$.50 to the crime victims assistance fund established pursuant
6 to K.S.A. 74-7334, and amendments thereto, \$1 to the trauma fund
7 established pursuant to K.S.A. 2015 Supp. 75-5670, and amendments
8 thereto, and \$1 to the department of corrections forensic psychologist
9 fund established pursuant to K.S.A. 2015 Supp. 75-52,151, and
10 amendments thereto.

11 (b) The judge or clerk of the municipal court shall remit the
12 appropriate assessments received pursuant to this section to the state
13 treasurer in accordance with the provisions of K.S.A. 75-4215, and
14 amendments thereto. Upon receipt of each such remittance, the state
15 treasurer shall deposit the entire amount in the state treasury to the
16 credit of the local law enforcement training reimbursement fund, the
17 law enforcement training center fund, the Kansas commission on
18 peace officers' standards and training fund, the juvenile detention
19 facilities fund, the crime victims assistance fund, the trauma fund and
20 the department of corrections forensic psychologist fund as provided
21 in this section.

22 (c) For the purpose of determining the amount to be assessed
23 according to this section, if more than one complaint is filed in the
24 municipal court against one individual arising out of the same
25 incident, all such complaints shall be considered as one case.

26 ~~Section 1.~~ **Sec. 3.** K.S.A. 2015 Supp. 12-4516 is hereby amended to
27 read as follows: 12-4516. (a) (1) Except as provided in subsections (b), (c),
28 (d), (e) and (f), any person who has been convicted of a violation of a city
29 ordinance of this state may petition the convicting court for the
30 expungement of such conviction and related arrest records if three or more
31 years have elapsed since the person:

32 (A) Satisfied the sentence imposed; or

33 (B) was discharged from probation, parole or a suspended sentence.

34 (2) Except as provided in subsections (b), (c), (d), (e) and (f), any
35 person who has fulfilled the terms of a diversion agreement based on a
36 violation of a city ordinance of this state may petition the court for the
37 expungement of such diversion agreement and related arrest records if
38 three or more years have elapsed since the terms of the diversion
39 agreement were fulfilled.

40 (b) Any person convicted of a violation of any ordinance that is
41 prohibited by either K.S.A. 2015 Supp. 12-16,134(a) or (b), and
42 amendments thereto, and which was adopted prior to July 1, 2014, or who
43 entered into a diversion agreement in lieu of further criminal proceedings

1 for such violation, may petition the convicting court for the expungement
2 of such conviction or diversion agreement and related arrest records.

3 (c) Any person convicted of the violation of a city ordinance which
4 would also constitute a violation of K.S.A. 21-3512, prior to its repeal, or a
5 violation of K.S.A. 2015 Supp. 21-6419, and amendments thereto, or who
6 entered into a diversion agreement in lieu of further criminal proceedings
7 for such violation, may petition the convicting court for the expungement
8 of such conviction or diversion agreement and related arrest records if:

9 (1) One or more years have elapsed since the person satisfied the
10 sentence imposed or the terms of a diversion agreement or was discharged
11 from probation, parole, conditional release or a suspended sentence; and

12 (2) such person can prove they were acting under coercion caused by
13 the act of another. For purposes of this subsection, "coercion" means:
14 Threats of harm or physical restraint against any person; a scheme, plan or
15 pattern intended to cause a person to believe that failure to perform an act
16 would result in bodily harm or physical restraint against any person; or the
17 abuse or threatened abuse of the legal process.

18 (d) No person may petition for expungement until five or more years
19 have elapsed since the person satisfied the sentence imposed or the terms
20 of a diversion agreement or was discharged from probation, parole,
21 conditional release or a suspended sentence, if such person was convicted
22 of the violation of a city ordinance which would also constitute:

23 (1) Vehicular homicide, as defined by K.S.A. 21-3405, prior to its
24 repeal, or K.S.A. 2015 Supp. 21-5406, and amendments thereto;

25 (2) driving while the privilege to operate a motor vehicle on the
26 public highways of this state has been canceled, suspended or revoked, as
27 prohibited by K.S.A. 8-262, and amendments thereto;

28 (3) perjury resulting from a violation of K.S.A. 8-261a, and
29 amendments thereto;

30 (4) a violation of the provisions of K.S.A. 8-142 *Fifth*, and
31 amendments thereto, relating to fraudulent applications;

32 (5) any crime punishable as a felony wherein a motor vehicle was
33 used in the perpetration of such crime;

34 (6) failing to stop at the scene of an accident and perform the duties
35 required by K.S.A. 8-1602, 8-1603, prior to its repeal, or 8-1604, and
36 amendments thereto;

37 (7) a violation of the provisions of K.S.A. 40-3104, and amendments
38 thereto, relating to motor vehicle liability insurance coverage; or

39 (8) a violation of K.S.A. 21-3405b, prior to its repeal.

40 (e) (1) No person may petition for expungement until five or more
41 years have elapsed since the person satisfied the sentence imposed or the
42 terms of a diversion agreement or was discharged from probation, parole,
43 conditional release or a suspended sentence, if such person was convicted

1 of a first violation of a city ordinance which would also constitute a first
2 violation of K.S.A. 8-1567 or K.S.A. 2015 Supp. 8-1025, and amendments
3 thereto.

4 (2) No person may petition for expungement until 10 or more years
5 have elapsed since the person satisfied the sentence imposed or was
6 discharged from probation, parole, conditional release or a suspended
7 sentence, if such person was convicted of a second or subsequent violation
8 of a city ordinance which would also constitute a second or subsequent
9 violation of K.S.A. 8-1567 or K.S.A. 2015 Supp. 8-1025, and amendments
10 thereto.

11 (f) There shall be no expungement of convictions or diversions for a
12 violation of a city ordinance which would also constitute a violation of
13 K.S.A. 8-2,144, and amendments thereto.

14 (g) (1) When a petition for expungement is filed, the court shall set a
15 date for a hearing of such petition and shall cause notice of such hearing to
16 be given to the prosecuting attorney and the arresting law enforcement
17 agency. The petition shall state the:

18 (A) Defendant's full name;

19 (B) full name of the defendant at the time of arrest, conviction or
20 diversion, if different than the defendant's current name;

21 (C) defendant's sex, race and date of birth;

22 (D) crime for which the defendant was arrested, convicted or
23 diverted;

24 (E) date of the defendant's arrest, conviction or diversion; and

25 (F) identity of the convicting court, arresting law enforcement agency
26 or diverting authority.

27 (2) A municipal court may prescribe a fee to be charged as costs for a
28 person petitioning for an order of expungement pursuant to this section.

29 (3) Any person who may have relevant information about the
30 petitioner may testify at the hearing. The court may inquire into the
31 background of the petitioner and shall have access to any reports or
32 records relating to the petitioner that are on file with the secretary of
33 corrections or the prisoner review board.

34 (h) At the hearing on the petition, the court shall order the petitioner's
35 arrest record, conviction or diversion expunged if the court finds that:

36 (1) The petitioner has not been convicted of a felony in the past two
37 years and no proceeding involving any such crime is presently pending or
38 being instituted against the petitioner;

39 (2) the circumstances and behavior of the petitioner warrant the
40 expungement; and

41 (3) the expungement is consistent with the public welfare.

42 (i) When the court has ordered an arrest record, conviction or
43 diversion expunged, the order of expungement shall state the information

1 required to be contained in the petition. The clerk of the court shall send a
2 certified copy of the order of expungement to the Kansas bureau of
3 investigation which shall notify the federal bureau of investigation, the
4 secretary of corrections and any other criminal justice agency which may
5 have a record of the arrest, conviction or diversion. *If the case was*
6 *appealed from municipal court, the clerk of the district court shall send a*
7 *certified copy of the order of expungement to the municipal court. The*
8 *municipal court shall order the case expunged once the certified copy of*
9 *the order of expungement is received.* After the order of expungement is
10 entered, the petitioner shall be treated as not having been arrested,
11 convicted or diverted of the crime, except that:

12 (1) Upon conviction for any subsequent crime, the conviction that
13 was expunged may be considered as a prior conviction in determining the
14 sentence to be imposed;

15 (2) the petitioner shall disclose that the arrest, conviction or diversion
16 occurred if asked about previous arrests, convictions or diversions:

17 (A) In any application for licensure as a private detective, private
18 detective agency, certification as a firearms trainer pursuant to K.S.A.
19 2015 Supp. 75-7b21, and amendments thereto, or employment as a
20 detective with a private detective agency, as defined by K.S.A. 75-7b01,
21 and amendments thereto; as security personnel with a private patrol
22 operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with
23 an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of
24 the *Kansas* department for aging and disability services;

25 (B) in any application for admission, or for an order of reinstatement,
26 to the practice of law in this state;

27 (C) to aid in determining the petitioner's qualifications for
28 employment with the Kansas lottery or for work in sensitive areas within
29 the Kansas lottery as deemed appropriate by the executive director of the
30 Kansas lottery;

31 (D) to aid in determining the petitioner's qualifications for executive
32 director of the Kansas racing and gaming commission, for employment
33 with the commission or for work in sensitive areas in parimutuel racing as
34 deemed appropriate by the executive director of the commission, or to aid
35 in determining qualifications for licensure or renewal of licensure by the
36 commission;

37 (E) to aid in determining the petitioner's qualifications for the
38 following under the Kansas expanded lottery act: (i) Lottery gaming
39 facility manager or prospective manager, racetrack gaming facility
40 manager or prospective manager, licensee or certificate holder; or (ii) an
41 officer, director, employee, owner, agent or contractor thereof;

42 (F) upon application for a commercial driver's license under K.S.A.
43 8-2,125 through 8-2,142, and amendments thereto;

1 (G) to aid in determining the petitioner's qualifications to be an
2 employee of the state gaming agency;

3 (H) to aid in determining the petitioner's qualifications to be an
4 employee of a tribal gaming commission or to hold a license issued
5 pursuant to a tribal-state gaming compact;

6 (I) in any application for registration as a broker-dealer, agent,
7 investment adviser or investment adviser representative all as defined in
8 K.S.A. 17-12a102, and amendments thereto;

9 (J) in any application for employment as a law enforcement officer, as
10 defined in K.S.A. 22-2202 or 74-5602, and amendments thereto; or

11 (K) for applications received on and after July 1, 2006, to aid in
12 determining the petitioner's qualifications for a license to carry a concealed
13 weapon pursuant to the personal and family protection act, K.S.A. 2015
14 Supp. 75-7c01 et seq., and amendments thereto;

15 (3) the court, in the order of expungement, may specify other
16 circumstances under which the arrest, conviction or diversion is to be
17 disclosed; and

18 (4) the conviction may be disclosed in a subsequent prosecution for
19 an offense which requires as an element of such offense a prior conviction
20 of the type expunged.

21 (j) Whenever a person is convicted of an ordinance violation, pleads
22 guilty and pays a fine for such a violation, is placed on parole or probation
23 or is granted a suspended sentence for such a violation, the person shall be
24 informed of the ability to expunge the arrest records or conviction.
25 Whenever a person enters into a diversion agreement, the person shall be
26 informed of the ability to expunge the diversion.

27 (k) Subject to the disclosures required pursuant to subsection (i), in
28 any application for employment, license or other civil right or privilege, or
29 any appearance as a witness, a person whose arrest records, conviction or
30 diversion of an offense has been expunged under this statute may state that
31 such person has never been arrested, convicted or diverted of such offense.

32 (l) Whenever the record of any arrest, conviction or diversion has
33 been expunged under the provisions of this section or under the provisions
34 of any other existing or former statute, the custodian of the records of
35 arrest, conviction, diversion and incarceration relating to that crime shall
36 not disclose the existence of such records, except when requested by:

37 (1) The person whose record was expunged;

38 (2) a private detective agency or a private patrol operator, and the
39 request is accompanied by a statement that the request is being made in
40 conjunction with an application for employment with such agency or
41 operator by the person whose record has been expunged;

42 (3) a court, upon a showing of a subsequent conviction of the person
43 whose record has been expunged;

1 (4) the secretary for aging and disability services, or a designee of the
2 secretary, for the purpose of obtaining information relating to employment
3 in an institution, as defined in K.S.A. 76-12a01, and amendments thereto,
4 of the *Kansas* department for aging and disability services of any person
5 whose record has been expunged;

6 (5) a person entitled to such information pursuant to the terms of the
7 expungement order;

8 (6) a prosecuting attorney, and such request is accompanied by a
9 statement that the request is being made in conjunction with a prosecution
10 of an offense that requires a prior conviction as one of the elements of such
11 offense;

12 (7) the supreme court, the clerk or disciplinary administrator thereof,
13 the state board for admission of attorneys or the state board for discipline
14 of attorneys, and the request is accompanied by a statement that the
15 request is being made in conjunction with an application for admission, or
16 for an order of reinstatement, to the practice of law in this state by the
17 person whose record has been expunged;

18 (8) the Kansas lottery, and the request is accompanied by a statement
19 that the request is being made to aid in determining qualifications for
20 employment with the Kansas lottery or for work in sensitive areas within
21 the Kansas lottery as deemed appropriate by the executive director of the
22 Kansas lottery;

23 (9) the governor or the Kansas racing and gaming commission, or a
24 designee of the commission, and the request is accompanied by a
25 statement that the request is being made to aid in determining
26 qualifications for executive director of the commission, for employment
27 with the commission, for work in sensitive areas in parimutuel racing as
28 deemed appropriate by the executive director of the commission or for
29 licensure, renewal of licensure or continued licensure by the commission;

30 (10) the Kansas racing and gaming commission, or a designee of the
31 commission, and the request is accompanied by a statement that the
32 request is being made to aid in determining qualifications of the following
33 under the Kansas expanded lottery act:

34 (A) Lottery gaming facility managers and prospective managers,
35 racetrack gaming facility managers and prospective managers, licensees
36 and certificate holders; and

37 (B) their officers, directors, employees, owners, agents and
38 contractors;

39 (11) the state gaming agency, and the request is accompanied by a
40 statement that the request is being made to aid in determining
41 qualifications:

42 (A) To be an employee of the state gaming agency; or

43 (B) to be an employee of a tribal gaming commission or to hold a

1 license issued pursuant to a tribal-state gaming compact;

2 (12) the Kansas securities commissioner, or a designee of the
3 commissioner, and the request is accompanied by a statement that the
4 request is being made in conjunction with an application for registration as
5 a broker-dealer, agent, investment adviser or investment adviser
6 representative by such agency and the application was submitted by the
7 person whose record has been expunged;

8 (13) the attorney general, and the request is accompanied by a
9 statement that the request is being made to aid in determining
10 qualifications for a license to carry a concealed weapon pursuant to the
11 personal and family protection act;

12 (14) the Kansas sentencing commission;

13 (15) the Kansas commission on peace officers' standards and training
14 and the request is accompanied by a statement that the request is being
15 made to aid in determining certification eligibility as a law enforcement
16 officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto; or

17 (16) a law enforcement agency and the request is accompanied by a
18 statement that the request is being made to aid in determining eligibility
19 for employment as a law enforcement officer as defined by K.S.A. 22-
20 2202, and amendments thereto.

21 Sec. 2. **4.** K.S.A. 2015 Supp. 21-6614 is hereby amended to read as
22 follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d), (e)
23 and (f), any person convicted in this state of a traffic infraction, cigarette
24 or tobacco infraction, misdemeanor or a class D or E felony, or for crimes
25 committed on or after July 1, 1993, any nongrid felony or felony ranked in
26 severity levels 6 through 10 of the nondrug grid, or for crimes committed
27 on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in
28 severity level 4 of the drug grid, or for crimes committed on or after July
29 1, 2012, any felony ranked in severity level 5 of the drug grid may petition
30 the convicting court for the expungement of such conviction or related
31 arrest records if three or more years have elapsed since the person: (A)
32 Satisfied the sentence imposed; or (B) was discharged from probation, a
33 community correctional services program, parole, postrelease supervision,
34 conditional release or a suspended sentence.

35 (2) Except as provided in subsections (b), (c), (d), (e) and (f), any
36 person who has fulfilled the terms of a diversion agreement may petition
37 the district court for the expungement of such diversion agreement and
38 related arrest records if three or more years have elapsed since the terms of
39 the diversion agreement were fulfilled.

40 (b) Any person convicted of prostitution, as defined in K.S.A. 21-
41 3512, prior to its repeal, convicted of a violation of K.S.A. 2015 Supp. 21-
42 6419, and amendments thereto, or who entered into a diversion agreement
43 in lieu of further criminal proceedings for such violation, may petition the

1 convicting court for the expungement of such conviction or diversion
2 agreement and related arrest records if:

3 (1) One or more years have elapsed since the person satisfied the
4 sentence imposed or the terms of a diversion agreement or was discharged
5 from probation, a community correctional services program, parole,
6 postrelease supervision, conditional release or a suspended sentence; and

7 (2) such person can prove they were acting under coercion caused by
8 the act of another. For purposes of this subsection, "coercion" means:
9 Threats of harm or physical restraint against any person; a scheme, plan or
10 pattern intended to cause a person to believe that failure to perform an act
11 would result in bodily harm or physical restraint against any person; or the
12 abuse or threatened abuse of the legal process.

13 (c) Except as provided in subsections (e) and (f), no person may
14 petition for expungement until five or more years have elapsed since the
15 person satisfied the sentence imposed or the terms of a diversion
16 agreement or was discharged from probation, a community correctional
17 services program, parole, postrelease supervision, conditional release or a
18 suspended sentence, if such person was convicted of a class A, B or C
19 felony, or for crimes committed on or after July 1, 1993, if convicted of an
20 off-grid felony or any felony ranked in severity levels 1 through 5 of the
21 nondrug grid, or for crimes committed on or after July 1, 1993, but prior to
22 July 1, 2012, any felony ranked in severity levels 1 through 3 of the drug
23 grid, or for crimes committed on or after July 1, 2012, any felony ranked
24 in severity levels 1 through 4 of the drug grid, or:

25 (1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its
26 repeal, or K.S.A. 2015 Supp. 21-5406, and amendments thereto, or as
27 prohibited by any law of another state which is in substantial conformity
28 with that statute;

29 (2) driving while the privilege to operate a motor vehicle on the
30 public highways of this state has been canceled, suspended or revoked, as
31 prohibited by K.S.A. 8-262, and amendments thereto, or as prohibited by
32 any law of another state which is in substantial conformity with that
33 statute;

34 (3) perjury resulting from a violation of K.S.A. 8-261a, and
35 amendments thereto, or resulting from the violation of a law of another
36 state which is in substantial conformity with that statute;

37 (4) violating the provisions of K.S.A. 8-142 *Fifth*, and amendments
38 thereto, relating to fraudulent applications or violating the provisions of a
39 law of another state which is in substantial conformity with that statute;

40 (5) any crime punishable as a felony wherein a motor vehicle was
41 used in the perpetration of such crime;

42 (6) failing to stop at the scene of an accident and perform the duties
43 required by K.S.A. 8-1602, 8-1603, prior to its repeal, or 8-1604, and

1 amendments thereto, or required by a law of another state which is in
2 substantial conformity with those statutes;

3 (7) violating the provisions of K.S.A. 40-3104, and amendments
4 thereto, relating to motor vehicle liability insurance coverage; or

5 (8) a violation of K.S.A. 21-3405b, prior to its repeal.

6 (d) (1) No person may petition for expungement until five or more
7 years have elapsed since the person satisfied the sentence imposed or the
8 terms of a diversion agreement or was discharged from probation, a
9 community correctional services program, parole, postrelease supervision,
10 conditional release or a suspended sentence, if such person was convicted
11 of a first violation of K.S.A. 8-1567 or K.S.A. 2015 Supp. 8-1025, and
12 amendments thereto, including any diversion for such violation.

13 (2) No person may petition for expungement until 10 or more years
14 have elapsed since the person satisfied the sentence imposed or was
15 discharged from probation, a community correctional services program,
16 parole, postrelease supervision, conditional release or a suspended
17 sentence, if such person was convicted of a second or subsequent violation
18 of K.S.A. 8-1567 or K.S.A. 2015 Supp. 8-1025, and amendments thereto.

19 (e) There shall be no expungement of convictions for the following
20 offenses or of convictions for an attempt to commit any of the following
21 offenses:

22 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
23 2015 Supp. 21-5503, and amendments thereto;

24 (2) indecent liberties with a child or aggravated indecent liberties
25 with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,
26 or K.S.A. 2015 Supp. 21-5506, and amendments thereto;

27 (3) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
28 prior to its repeal, or K.S.A. 2015 Supp. 21-5504(a)(3) or (a)(4), and
29 amendments thereto;

30 (4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
31 to its repeal, or K.S.A. 2015 Supp. 21-5504, and amendments thereto;

32 (5) indecent solicitation of a child or aggravated indecent solicitation
33 of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal,
34 or K.S.A. 2015 Supp. 21-5508, and amendments thereto;

35 (6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
36 to its repeal, or K.S.A. 2015 Supp. 21-5510, and amendments thereto;

37 (7) aggravated incest, as defined in K.S.A. 21-3603, prior to its
38 repeal, or K.S.A. 2015 Supp. 21-5604, and amendments thereto;

39 (8) endangering a child or aggravated endangering a child, as defined
40 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2015 Supp.
41 21-5601, and amendments thereto;

42 (9) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
43 or K.S.A. 2015 Supp. 21-5602, and amendments thereto;

1 (10) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
2 or K.S.A. 2015 Supp. 21-5401, and amendments thereto;

3 (11) murder in the first degree, as defined in K.S.A. 21-3401, prior to
4 its repeal, or K.S.A. 2015 Supp. 21-5402, and amendments thereto;

5 (12) murder in the second degree, as defined in K.S.A. 21-3402, prior
6 to its repeal, or K.S.A. 2015 Supp. 21-5403, and amendments thereto;

7 (13) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to
8 its repeal, or K.S.A. 2015 Supp. 21-5404, and amendments thereto;

9 (14) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
10 its repeal, or K.S.A. 2015 Supp. 21-5405, and amendments thereto;

11 (15) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
12 or K.S.A. 2015 Supp. 21-5505, and amendments thereto, when the victim
13 was less than 18 years of age at the time the crime was committed;

14 (16) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
15 its repeal, or K.S.A. 2015 Supp. 21-5505, and amendments thereto;

16 (17) a violation of K.S.A. 8-2,144, and amendments thereto,
17 including any diversion for such violation; or

18 (18) any conviction for any offense in effect at any time prior to July
19 1, 2011, that is comparable to any offense as provided in this subsection.

20 (f) Notwithstanding any other law to the contrary, for any offender
21 who is required to register as provided in the Kansas offender registration
22 act, K.S.A. 22-4901 et seq., and amendments thereto, there shall be no
23 expungement of any conviction or any part of the offender's criminal
24 record while the offender is required to register as provided in the Kansas
25 offender registration act.

26 (g) (1) When a petition for expungement is filed, the court shall set a
27 date for a hearing of such petition and shall cause notice of such hearing to
28 be given to the prosecutor and the arresting law enforcement agency. The
29 petition shall state the:

30 (A) Defendant's full name;

31 (B) full name of the defendant at the time of arrest, conviction or
32 diversion, if different than the defendant's current name;

33 (C) defendant's sex, race and date of birth;

34 (D) crime for which the defendant was arrested, convicted or
35 diverted;

36 (E) date of the defendant's arrest, conviction or diversion; and

37 (F) identity of the convicting court, arresting law enforcement
38 authority or diverting authority.

39 (2) Except as otherwise provided by law, a petition for expungement
40 shall be accompanied by a docket fee in the amount of \$176. On and after
41 July 1, 2013 2015, through ~~July 1, 2015~~ June 30, 2017, the supreme court
42 may impose a charge, not to exceed \$19 per case, to fund the costs of non-
43 judicial personnel. The charge established in this section shall be the only

1 fee collected or moneys in the nature of a fee collected for the case. Such
2 charge shall only be established by an act of the legislature and no other
3 authority is established by law or otherwise to collect a fee.

4 (3) All petitions for expungement shall be docketed in the original
5 criminal action. Any person who may have relevant information about the
6 petitioner may testify at the hearing. The court may inquire into the
7 background of the petitioner and shall have access to any reports or
8 records relating to the petitioner that are on file with the secretary of
9 corrections or the prisoner review board.

10 (h) At the hearing on the petition, the court shall order the petitioner's
11 arrest record, conviction or diversion expunged if the court finds that:

12 (1) The petitioner has not been convicted of a felony in the past two
13 years and no proceeding involving any such crime is presently pending or
14 being instituted against the petitioner;

15 (2) the circumstances and behavior of the petitioner warrant the
16 expungement; and

17 (3) the expungement is consistent with the public welfare.

18 (i) When the court has ordered an arrest record, conviction or
19 diversion expunged, the order of expungement shall state the information
20 required to be contained in the petition. The clerk of the court shall send a
21 certified copy of the order of expungement to the Kansas bureau of
22 investigation which shall notify the federal bureau of investigation, the
23 secretary of corrections and any other criminal justice agency which may
24 have a record of the arrest, conviction or diversion. *If the case was*
25 *appealed from municipal court, the clerk of the district court shall send a*
26 *certified copy of the order of expungement to the municipal court. The*
27 *municipal court shall order the case expunged once the certified copy of*
28 *the order of expungement is received.* After the order of expungement is
29 entered, the petitioner shall be treated as not having been arrested,
30 convicted or diverted of the crime, except that:

31 (1) Upon conviction for any subsequent crime, the conviction that
32 was expunged may be considered as a prior conviction in determining the
33 sentence to be imposed;

34 (2) the petitioner shall disclose that the arrest, conviction or diversion
35 occurred if asked about previous arrests, convictions or diversions:

36 (A) In any application for licensure as a private detective, private
37 detective agency, certification as a firearms trainer pursuant to K.S.A.
38 2015 Supp. 75-7b21, and amendments thereto, or employment as a
39 detective with a private detective agency, as defined by K.S.A. 75-7b01,
40 and amendments thereto; as security personnel with a private patrol
41 operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with
42 an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of
43 the Kansas department for aging and disability services;

1 (B) in any application for admission, or for an order of reinstatement,
2 to the practice of law in this state;

3 (C) to aid in determining the petitioner's qualifications for
4 employment with the Kansas lottery or for work in sensitive areas within
5 the Kansas lottery as deemed appropriate by the executive director of the
6 Kansas lottery;

7 (D) to aid in determining the petitioner's qualifications for executive
8 director of the Kansas racing and gaming commission, for employment
9 with the commission or for work in sensitive areas in parimutuel racing as
10 deemed appropriate by the executive director of the commission, or to aid
11 in determining qualifications for licensure or renewal of licensure by the
12 commission;

13 (E) to aid in determining the petitioner's qualifications for the
14 following under the Kansas expanded lottery act: (i) Lottery gaming
15 facility manager or prospective manager, racetrack gaming facility
16 manager or prospective manager, licensee or certificate holder; or (ii) an
17 officer, director, employee, owner, agent or contractor thereof;

18 (F) upon application for a commercial driver's license under K.S.A.
19 8-2,125 through 8-2,142, and amendments thereto;

20 (G) to aid in determining the petitioner's qualifications to be an
21 employee of the state gaming agency;

22 (H) to aid in determining the petitioner's qualifications to be an
23 employee of a tribal gaming commission or to hold a license issued
24 pursuant to a tribal-state gaming compact;

25 (I) in any application for registration as a broker-dealer, agent,
26 investment adviser or investment adviser representative all as defined in
27 K.S.A. 17-12a102, and amendments thereto;

28 (J) in any application for employment as a law enforcement officer as
29 defined in K.S.A. 22-2202 or 74-5602, and amendments thereto; or

30 (K) for applications received on and after July 1, 2006, to aid in
31 determining the petitioner's qualifications for a license to carry a concealed
32 weapon pursuant to the personal and family protection act, K.S.A. 2015
33 Supp. 75-7c01 et seq., and amendments thereto;

34 (3) the court, in the order of expungement, may specify other
35 circumstances under which the conviction is to be disclosed;

36 (4) the conviction may be disclosed in a subsequent prosecution for
37 an offense which requires as an element of such offense a prior conviction
38 of the type expunged; and

39 (5) upon commitment to the custody of the secretary of corrections,
40 any previously expunged record in the possession of the secretary of
41 corrections may be reinstated and the expungement disregarded, and the
42 record continued for the purpose of the new commitment.

43 (j) Whenever a person is convicted of a crime, pleads guilty and pays

1 a fine for a crime, is placed on parole, postrelease supervision or
2 probation, is assigned to a community correctional services program, is
3 granted a suspended sentence or is released on conditional release, the
4 person shall be informed of the ability to expunge the arrest records or
5 conviction. Whenever a person enters into a diversion agreement, the
6 person shall be informed of the ability to expunge the diversion.

7 (k) (1) Subject to the disclosures required pursuant to subsection (i),
8 in any application for employment, license or other civil right or privilege,
9 or any appearance as a witness, a person whose arrest records, conviction
10 or diversion of a crime has been expunged under this statute may state that
11 such person has never been arrested, convicted or diverted of such crime.

12 (2) Notwithstanding the provisions of subsection (k)(1), and except as
13 provided in K.S.A. 2015 Supp. 21-6304(a)(3)(A), and amendments
14 thereto, the expungement of a prior felony conviction does not relieve the
15 individual of complying with any state or federal law relating to the use,
16 shipment, transportation, receipt or possession of firearms by persons
17 previously convicted of a felony.

18 (l) Whenever the record of any arrest, conviction or diversion has
19 been expunged under the provisions of this section or under the provisions
20 of any other existing or former statute, the custodian of the records of
21 arrest, conviction, diversion and incarceration relating to that crime shall
22 not disclose the existence of such records, except when requested by:

23 (1) The person whose record was expunged;

24 (2) a private detective agency or a private patrol operator, and the
25 request is accompanied by a statement that the request is being made in
26 conjunction with an application for employment with such agency or
27 operator by the person whose record has been expunged;

28 (3) a court, upon a showing of a subsequent conviction of the person
29 whose record has been expunged;

30 (4) the secretary for aging and disability services, or a designee of the
31 secretary, for the purpose of obtaining information relating to employment
32 in an institution, as defined in K.S.A. 76-12a01, and amendments thereto,
33 of the Kansas department for aging and disability services of any person
34 whose record has been expunged;

35 (5) a person entitled to such information pursuant to the terms of the
36 expungement order;

37 (6) a prosecutor, and such request is accompanied by a statement that
38 the request is being made in conjunction with a prosecution of an offense
39 that requires a prior conviction as one of the elements of such offense;

40 (7) the supreme court, the clerk or disciplinary administrator thereof,
41 the state board for admission of attorneys or the state board for discipline
42 of attorneys, and the request is accompanied by a statement that the
43 request is being made in conjunction with an application for admission, or

1 for an order of reinstatement, to the practice of law in this state by the
2 person whose record has been expunged;

3 (8) the Kansas lottery, and the request is accompanied by a statement
4 that the request is being made to aid in determining qualifications for
5 employment with the Kansas lottery or for work in sensitive areas within
6 the Kansas lottery as deemed appropriate by the executive director of the
7 Kansas lottery;

8 (9) the governor or the Kansas racing and gaming commission, or a
9 designee of the commission, and the request is accompanied by a
10 statement that the request is being made to aid in determining
11 qualifications for executive director of the commission, for employment
12 with the commission, for work in sensitive areas in parimutuel racing as
13 deemed appropriate by the executive director of the commission or for
14 licensure, renewal of licensure or continued licensure by the commission;

15 (10) the Kansas racing and gaming commission, or a designee of the
16 commission, and the request is accompanied by a statement that the
17 request is being made to aid in determining qualifications of the following
18 under the Kansas expanded lottery act: (A) Lottery gaming facility
19 managers and prospective managers, racetrack gaming facility managers
20 and prospective managers, licensees and certificate holders; and (B) their
21 officers, directors, employees, owners, agents and contractors;

22 (11) the Kansas sentencing commission;

23 (12) the state gaming agency, and the request is accompanied by a
24 statement that the request is being made to aid in determining
25 qualifications: (A) To be an employee of the state gaming agency; or (B)
26 to be an employee of a tribal gaming commission or to hold a license
27 issued pursuant to a tribal-gaming compact;

28 (13) the Kansas securities commissioner or a designee of the
29 commissioner, and the request is accompanied by a statement that the
30 request is being made in conjunction with an application for registration as
31 a broker-dealer, agent, investment adviser or investment adviser
32 representative by such agency and the application was submitted by the
33 person whose record has been expunged;

34 (14) the Kansas commission on peace officers' standards and training
35 and the request is accompanied by a statement that the request is being
36 made to aid in determining certification eligibility as a law enforcement
37 officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto;

38 (15) a law enforcement agency and the request is accompanied by a
39 statement that the request is being made to aid in determining eligibility
40 for employment as a law enforcement officer as defined by K.S.A. 22-
41 2202, and amendments thereto;

42 (16) the attorney general and the request is accompanied by a
43 statement that the request is being made to aid in determining

1 qualifications for a license to carry a concealed weapon pursuant to the
2 personal and family protection act; or

3 (17) the Kansas bureau of investigation for the purposes of:

4 (A) Completing a person's criminal history record information within
5 the central repository, in accordance with K.S.A. 22-4701 et seq., and
6 amendments thereto; or

7 (B) providing information or documentation to the federal bureau of
8 investigation, in connection with the national instant criminal background
9 check system, to determine a person's qualification to possess a firearm.

10 (m) The provisions of subsection (l)(17) shall apply to records
11 created prior to, on and after July 1, 2011.

12 ~~Sec. 3.~~ **5.** K.S.A. 2015 Supp. 22-2410 is hereby amended to read as
13 follows: 22-2410. (a) Any person who has been arrested in this state may
14 petition the district court for the expungement of such arrest record.

15 (b) When a petition for expungement is filed, the court shall set a date
16 for hearing on such petition and shall cause notice of such hearing to be
17 given to the prosecuting attorney and the arresting law enforcement
18 agency. When a petition for expungement is filed, the official court file
19 shall be separated from the other records of the court, and shall be
20 disclosed only to a judge of the court and members of the staff of the court
21 designated by a judge of the district court, the prosecuting attorney, the
22 arresting law enforcement agency, or any other person when authorized by
23 a court order, subject to any conditions imposed by the order. Except as
24 otherwise provided by law, a petition for expungement shall be
25 accompanied by a docket fee in the amount of \$176. Except as provided
26 further, the docket fee established in this section shall be the only fee
27 collected or moneys in the nature of a fee collected for the docket fee.
28 Such fee shall only be established by an act of the legislature and no other
29 authority is established by law or otherwise to collect a fee. On and after
30 July 1, 2015, through June 30, 2017, the supreme court may impose an
31 additional charge, not to exceed \$19 per docket fee, to fund the costs of
32 non-judicial personnel. The petition shall state:

33 (1) The petitioner's full name;

34 (2) the full name of the petitioner at the time of arrest, if different
35 than the petitioner's current name;

36 (3) the petitioner's sex, race and date of birth;

37 (4) the crime for which the petitioner was arrested;

38 (5) the date of the petitioner's arrest; and

39 (6) the identity of the arresting law enforcement agency.

40 No surcharge or fee shall be imposed to any person filing a petition
41 pursuant to this section, who was arrested as a result of being a victim of
42 identity theft under K.S.A. 21-4018, prior to its repeal, or K.S.A. 2015
43 Supp. 21-6107(a), and amendments thereto, or who has had criminal

1 charges dismissed because a court has found that there was no probable
2 cause for the arrest, the petitioner was found not guilty in court
3 proceedings or the charges have been dismissed. Any person who may
4 have relevant information about the petitioner may testify at the hearing.
5 The court may inquire into the background of the petitioner.

6 (c) At the hearing on a petition for expungement, the court shall order
7 the arrest record and subsequent court proceedings, if any, expunged upon
8 finding: (1) The arrest occurred because of mistaken identity;

9 (2) a court has found that there was no probable cause for the arrest;

10 (3) the petitioner was found not guilty in court proceedings; or

11 (4) the expungement would be in the best interests of justice and: (A)
12 Charges have been dismissed; or (B) no charges have been or are likely to
13 be filed.

14 (d) When the court has ordered expungement of an arrest record and
15 subsequent court proceedings, if any, the order shall state the information
16 required to be stated in the petition and shall state the grounds for
17 expungement under subsection (c). The clerk of the court shall send a
18 certified copy of the order to the Kansas bureau of investigation which
19 shall notify the federal bureau of investigation, the secretary of corrections
20 and any other criminal justice agency which may have a record of the
21 arrest. *If the case was appealed from municipal court, the clerk of the*
22 *district court shall send a certified copy of the order of expungement to the*
23 *municipal court. The municipal court shall order the case expunged once*
24 *the certified copy of the order of expungement is received.* If an order of
25 expungement is entered, the petitioner shall be treated as not having been
26 arrested.

27 (e) If the ground for expungement is as provided in subsection (c)(4),
28 the court shall determine whether, in the interests of public welfare, the
29 records should be available for any of the following purposes: (1) In any
30 application for employment as a detective with a private detective agency,
31 as defined in K.S.A. 75-7b01, and amendments thereto; as security
32 personnel with a private patrol operator, as defined by K.S.A. 75-7b01,
33 and amendments thereto; or with an institution, as defined in K.S.A. 76-
34 12a01, and amendments thereto, of the Kansas department for aging and
35 disability services;

36 (2) in any application for admission, or for an order of reinstatement,
37 to the practice of law in this state;

38 (3) to aid in determining the petitioner's qualifications for
39 employment with the Kansas lottery or for work in sensitive areas within
40 the Kansas lottery as deemed appropriate by the executive director of the
41 Kansas lottery;

42 (4) to aid in determining the petitioner's qualifications for executive
43 director of the Kansas racing commission, for employment with the

1 commission or for work in sensitive areas in parimutuel racing as deemed
2 appropriate by the executive director of the commission, or to aid in
3 determining qualifications for licensure or renewal of licensure by the
4 commission;

5 (5) in any application for a commercial driver's license under K.S.A.
6 8-2,125 through 8-2,142, and amendments thereto;

7 (6) to aid in determining the petitioner's qualifications to be an
8 employee of the state gaming agency;

9 (7) to aid in determining the petitioner's qualifications to be an
10 employee of a tribal gaming commission or to hold a license issued
11 pursuant to a tribal-state gaming compact; or

12 (8) in any other circumstances which the court deems appropriate.

13 (f) The court shall make all expunged records and related information
14 in such court's possession, created prior to, on and after July 1, 2011,
15 available to the Kansas bureau of investigation for the purposes of:

16 (1) Completing a person's criminal history record information within
17 the central repository in accordance with K.S.A. 22-4701 et seq., and
18 amendments thereto; or

19 (2) providing information or documentation to the federal bureau of
20 investigation, in connection with the national instant criminal background
21 check system, to determine a person's qualification to possess a firearm.

22 (g) Subject to any disclosures required under subsection (e), in any
23 application for employment, license or other civil right or privilege, or any
24 appearance as a witness, a person whose arrest records have been
25 expunged as provided in this section may state that such person has never
26 been arrested.

27 (h) Whenever a petitioner's arrest records have been expunged as
28 provided in this section, the custodian of the records of arrest,
29 incarceration due to arrest or court proceedings related to the arrest, shall
30 not disclose the arrest or any information related to the arrest, except as
31 directed by the order of expungement or when requested by the person
32 whose arrest record was expunged.

33 (i) The docket fee collected at the time the petition for expungement
34 is filed shall be disbursed in accordance with K.S.A. 20-362, and
35 amendments thereto.

36 Sec. 6. K.S.A. 2015 Supp. 22-3609 is hereby amended to read as
37 follows: 22-3609. (†) (a) The defendant shall have the right to appeal to
38 the district court of the county from any judgment of a municipal court
39 which adjudges the defendant guilty of a violation of the ordinances of any
40 municipality of Kansas or any findings of contempt. The appeal shall be
41 assigned by the chief judge to a district judge. The appeal shall stay all
42 further proceedings upon the judgment appealed from.

43 (2) (b) An appeal to the district court shall be taken by filing, in the

1 district court of the county in which the municipal court is located, a notice
2 of appeal and any appearance bond required by the municipal court.
3 Municipal court clerks are hereby authorized to accept notices of appeal
4 and appearance bonds under this subsection and shall forward such notices
5 and bonds to the district court. No appeal shall be filed until after the
6 sentence has been imposed. No appeal shall be taken more than 14 days
7 after the date the sentence is imposed.

8 (3) (c) The notice of appeal shall designate the judgment or part of
9 the judgment appealed from. The defendant shall cause notice of the
10 appeal to be served upon the city attorney prosecuting the case. The judge
11 whose judgment is appealed from or the clerk of the court, if there is one,
12 shall certify the complaint and warrant to the district court of the county,
13 but failure to do so shall not affect the validity of the appeal.

14 (4) (d) Except as provided herein, the trial of municipal appeal cases
15 shall be to the court unless a jury trial is requested in writing by the
16 defendant not later than seven days after first notice of trial assignment is
17 given to the defendant or such defendant's counsel. The time requirement
18 provided in this subsection regarding when a jury trial shall be requested
19 may be waived in the discretion of the court upon a finding that imposing
20 such time requirement would cause undue hardship or prejudice to the
21 defendant. A jury in a municipal appeal case shall consist of six members.
22 All appeals taken by a defendant from a municipal judge in contempt
23 findings, cigarette or tobacco infraction or traffic infraction cases shall be
24 tried by the court.

25 (5) (e) Notwithstanding the other provisions of this section, appeal
26 from a conviction rendered pursuant to ~~subsection (b)~~ of K.S.A. 12-
27 4416(b), and amendments thereto, shall be conducted only on the record of
28 the stipulation of facts relating to the complaint.

29 (f) *At the conclusion of the case, the district court shall send notice of*
30 *dismissal, conviction or acquittal to the municipal court clerk.*

31 ~~Sec. 5.~~ **7. K.S.A. 12-4112 and K.S.A. 2015 Supp. 12-4117, 12-4516,**
32 **12-4516d, 21-6614, 21-6614f, 22-2410 and 22-3609 are hereby repealed.**

33 ~~Sec. 6.~~ **8. This act shall take effect and be in force from and after its**
34 **publication in the statute book.**